

Law Offices

**VUONO & GRAY, LLC**

310 Grant Street, Suite 2310

Pittsburgh, PA 15219-2383

*John A. Vuono  
William A. Gray  
Mark T. Vuono\*  
Dennis J. Kusturiss  
Louise R. Schrage  
William H. Stewart, III  
Richard R. Wilson,  
of Counsel*

*\*Also Admitted in Florida*

233224

Telephone  
412-471-1800

Facsimile  
412-471-4477

Website  
www.vuonogray.com

Email Address  
jvuono@vuonogray.com



October 18, 2012

Re: Union Railroad Company  
--Corporate Family Merger Exemption  
--McKeesport Connecting Railroad Company  
STB Finance Docket No. 35679  
Our File 5253-2

ENTERED  
Office of Proceedings  
OCT 19 2012  
Part of  
Public Record

**FILED**  
OCT 19 2012  
SURFACE  
TRANSPORTATION BOARD

Ms. Cynthia T. Brown, Chief  
Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0011

**FEDERAL EXPRESS**

**FEE RECEIVED**  
OCT 19 2012  
SURFACE  
TRANSPORTATION BOARD

Dear Ms. Brown:

We enclose for filing in the above docketed proceeding, the signed original (unbound) and ten (10) bound copies of the Notice of Exemption in connection with the proposed merger of McKeesport Connecting Railroad Company into the Union Railroad Company pursuant to 49 U.S.C. §10502(a) and the regulations at 49 C.F.R. §1180.2(d)(3).

We are enclosing twenty (20) unbound copies of each of the two maps referred to in Appendices 1 and 2 of the Notice in accordance with 49 C.F.R. §1180.6(a)(6).

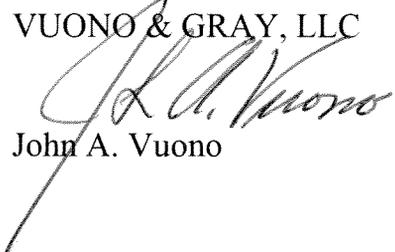
We also are enclosing a check in the sum of \$1,700 made payable to the "Surface Transportation Board" to cover the filing fee for the Notice of Exemption pursuant to 49 C.F.R. §1002.2(f)(38)(iv).

Ms. Cynthia T. Brown, Chief  
Page 2  
October 18, 2012

Please acknowledge receipt and filing of the enclosed on the duplicate copy of this letter and the cover page of the Notice of Exemption and return them to us in the enclosed self-addressed stamped envelope.

Sincerely yours,

VUONO & GRAY, LLC

  
John A. Vuono

CW/114328

Enclosures

cc: United States Steel Corporation  
Union Railroad Company  
McKeesport Connecting Railroad Company

233224

**ORIGINAL**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



**STB FINANCE DOCKET NO. 35679**

**UNION RAILROAD COMPANY**

**-- CORPORATE FAMILY MERGER EXEMPTION--**

**MCKEESPORT CONNECTING RAILROAD COMPANY**

**VERIFIED NOTICE OF EXEMPTION PURSUANT TO**

**49 U.S.C. §10502(a) AND THE REGULATIONS AT 49 C.F.R. §1180.2(d)(3)**

**FEE RECEIVED**

OCT 19 2012

**SURFACE  
TRANSPORTATION BOARD**

**Robert N. Gentile, Esq.**  
Associate General Counsel  
United States Steel Corporation  
600 Grant Street  
Pittsburgh, PA 15219  
412-433-2959

**FILED**

OCT 19 2012

**SURFACE  
TRANSPORTATION BOARD**

**ENTERED  
Office of Proceedings**

**John A. Vuono, Esq.**  
Vuono & Gray, LLC  
310 Grant Street  
Suite 2310  
Pittsburgh, PA 15219  
412-471-1800

OCT 19 2012

**Part of  
Public Record**

**OF COUNSEL:**

**VUONO & GRAY, LLC**  
310 Grant Street  
Suite 2310 Grant Building  
Pittsburgh, PA 15219

**Date: October 18, 2012**

**Attorneys for  
Union Railroad Company and  
McKeesport Connecting Railroad  
Company**

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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB FINANCE DOCKET NO. 35679**

**UNION RAILROAD COMPANY**

**-- CORPORATE FAMILY MERGER EXEMPTION--**

**MCKEESPORT CONNECTING RAILROAD COMPANY**

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**VERIFIED NOTICE OF EXEMPTION PURSUANT TO  
49 U.S.C. §10502(a) AND THE REGULATIONS AT 49 C.F.R. §1180.2(d)(3)**

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Union Railroad Company (“URR”) and McKeesport Connecting Railroad Company (“MCK”) file this Verified Notice of Exemption pursuant to 49 C.F.R. §10502(a) and the regulations at 49 C.F.R. §1180.2(d)(3) in connection with the merger of MCK into URR, as more fully described herein.

**I. BACKGROUND AND PRIOR STB PROCEEDINGS**

United States Steel Corporation (“USS”), a non-carrier, owns all of the issued and outstanding stock of Transtar, Inc. (“Transtar”), which is a non-carrier holding company. Transtar owns all of the issued and outstanding stock of six Class III common carrier

railroads subject to the jurisdiction of the STB, including URR and MCK (collectively, “the Transtar Railroads”)<sup>1</sup>. The common control of the Transtar Railroads by USS (formerly USX Corporation) is the subject of a number of prior STB exemption proceedings.<sup>2</sup>

## **II. PRESENT TRANSACTION**

URR and MCK are both Delaware corporations and Class III common carriers. This Verified Notice of Exemption is filed in connection with the corporate family merger of MCK with and into URR with URR as the surviving corporation.

MCK is a switching and terminal railroad which operates at McKeesport, PA. It connects with CSX Transportation and serves USS’ McKeesport Tubular Operations.

URR Railroad is a switching and terminal railroad. It operates approximately 27.8 route miles, extending from an interchange with the Bessemer & Lake Erie Railroad at North Bessemer, PA, south to an interchange with Wheeling & Lake Erie Railway at

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<sup>1</sup> Delray Connecting Railroad Company; Gary Railway Company; The Lake Terminal Railroad Company; McKeesport Connecting Railroad Company; Texas & Northern Railway Company; and Union Railroad Company. Transtar previously controlled through ownership of all of its stock the Birmingham Southern Railroad Company (“BS”). Pursuant to a Notice of Exemption filed in *Birmingham Terminal Railway, LLC--Acquisition and Operation Exemption--Birmingham Southern Railroad Company, Finance Docket No. 35578*, Birmingham Terminal Railway acquired from BS certain of its operating assets and the right to operate its rail line. On January 13, 2012, the STB served its Decision confirming that the transaction is exempt and the parties consummated the transaction as of January 31, 2012.

<sup>2</sup> *Transtar Holdings, L.P.--Corporate Family Exemption--Transtar, Inc., STB Finance Docket No. 32411*, served December 29, 1993; *USX Corporation--Control Exemption--Transtar, Inc., STB Finance Docket No. 33942*, served November 30, 2000; *United States Steel Corporation--Acquisition of Control Exemption--Delray Connecting Railroad Company, STB Finance Docket No. 34311*, served February 19, 2003; *Transtar, Inc.--Continuance in Control Exemption--Delray Connecting Railroad Company, STB Finance Docket No. 34767*, served November 1, 2005; *United States Steel Corporation--Acquisition of Control Exemption--Texas & Northern Railway Company, STB Finance Docket No. 35027*, served May 25, 2007; and *Transtar, Inc.--Control Exemption--Texas & Northern Railway Company, STB Finance Docket No.35070*, served August 8, 2007.

Mifflin Junction, PA with branches to Clairton, South Duquesne and Munhall, PA. It connects at the intermediate point of Bessemer, PA with CSX Transportation and at Kenny and Clarion, PA with Norfolk Southern Railway. It serves twelve customers, the largest of which are USS's, Clairton, Edgar Thompson and Irvin plants and Koppers, Inc. Other substantial customers are Duquesne Wharf, Keywell, LLC, Durabond Coating and Tube City IMS, LLC.

### **III. GOVERNING LAW AND REGULATIONS**

This transaction involves the merger of one Class III rail common carrier (MCK) into another Class III rail common carrier (URR). In the absence of an exemption, the transaction would require STB approval pursuant to 49 U.S.C. §11323(a)(1).

However, pursuant to 49 U.S.C. §10502(a), the STB must exempt a transaction whenever it finds that the application of its jurisdiction:

“(1) is not necessary to carry out the transportation policy of section 10101 of this title; and

“(2) either --

“(A) the transaction or service is of limited scope; or

“(B) the application in whole or in part of the provision is not needed to protect shippers from the abuse of market power.”

Pursuant to these statutory provisions, the Board has promulgated detailed regulations concerning certain railroad related transactions. Specifically, transactions

proposed under 49 U.S.C. §11323 involving more than one common carrier railroad are classified into one of four categories, namely “*Major, significant, minor, and exempt.*” 49 C.F.R. §1180.2.

The regulations provide that a transaction is “exempt” if it falls within one of eight described categories. 49 C.F.R. §1180.2(d). It is the position of the parties that the facts relating to the involved transaction clearly meet the requirements for exemption pursuant to the so-called “corporate family” exemption at 49 C.F.R. §1180.2(d)(3), *viz.*:

- (3) Transactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

With respect to transactions which fall within any one of the exempt categories, the regulations provide that the STB has found that those transactions meet the *per se* exemption requirements of 49 U.S.C. §10502(a), specifically that the STB’s prior review and approval of the transactions is not necessary to carry out the transportation policy of 49 U.S.C. §10101 and is of limited scope or unnecessary to protect shippers from market abuse. 49 C.F.R. §1180.2(d).

#### **IV. REQUIRED INFORMATION**

The following is the information required by 49 C.F.R. §1180.4(g) to qualify for an exemption under 49 C.F.R. §1180.2(d)(3) (designated by reference to appropriate Code of Federal Regulations citations) and certain other essential information:

**1. Description of Proposed Transaction (49 C.F.R. §1180.6(a)(1)).**

Pursuant to the provisions of a Plan of Merger executed by the parties, MCK shall be merged into URR upon the effective date of the merger, which latter corporation shall be the surviving corporation. The corporate existence of the surviving corporation shall continue unimpaired and unaffected by the merger.

**2. Names of Parties, Legal Counsel and Contact Information (49 C.F.R. §1180.6(a)(1)(i)).**

**2.1 Parties.**

Union Railroad Company  
1200 Penn Avenue  
Suite 300  
Pittsburgh, PA 15222  
Telephone: (412) 433-4640

McKeesport Connecting Railroad Company  
1200 Penn Avenue  
Suite 300  
Pittsburgh, PA 15222  
Telephone: (412) 433-4640

**2.2 Legal Counsel to Whom Questions May be Addressed.**

John A. Vuono, Esq.  
Vuono & Gray, LLC  
310 Grant Street  
Suite 2310  
Pittsburgh, PA 15219  
Telephone: (412) 471-1800  
Facsimile: (412) 471-4477  
E-Mail: [jvuono@vuonogray.com](mailto:jvuono@vuonogray.com)

Robert N. Gentile, Esq.  
Associate Gen. Counsel  
United States Steel Corporation  
600 Grant Street  
Room 1500  
Pittsburgh, PA 15219  
Telephone: 412-433-2959  
Facsimile: 412-433-2811  
EMAIL: [rngentile@uss.com](mailto:rngentile@uss.com)

**3. Proposed Time Schedule (49 C.F.R. §1180.6(a)(1)(ii)).**

It is anticipated that the merger will become effective as of January 1, 2013 and that the transaction will be consummated as of that date.

**4. Purpose of the Transaction (49 C.F.R. §1180.6(a)(1)(iii)).**

The purpose of the transaction is to simplify the corporate structure of the Transtar railroads by reducing the number of subsidiary railroads controlled by Transtar to five which will reduce the administrative, accounting, reporting and related burdens associated with the maintenance of the two separate corporate entities. The consummation of the transaction will not result in adverse changes in service levels presently provided by the involved railroads, significant operational changes or any changes in the competitive balance with carriers outside the corporate family. The service presently provided by the involved carriers will be continued by URR and all current connections of the involved carriers will be continued.

**5. States in which the involved Property is Located (49 C.F.R. §1180.6(a)(5)).**

The entire lines of the two railroads involved herein are located in the Commonwealth of Pennsylvania.

**6. Maps (49 C.F.R. §1180.6(a)(6)).**

There are attached as Appendices 1 and 2 Track Plans showing the existing railroad lines for MCK and URR, respectively.

**7. Agreement (49 C.F.R. §1180.6(a)(7)(ii)).**

There is attached as Appendix 3 a fully executed copy of the Plan of Merger between MCK and URR.

**8. Labor Protection (49 C.F.R. §1180.4(g)(1)(i)).**

MCK and URR are currently Class III rail carriers and URR will remain a Class III carrier after consummation of the proposed merger transaction. No other rail carriers are involved in the transaction. Accordingly, pursuant to 49 U.S.C. §11326(c), no employee protective conditions may be imposed on this transaction. Notwithstanding that fact, it is anticipated that upon consummation of the merger, the employees of the affected railroads will not be in a worse position relative to their employment as a result of the transaction.

**9. Description of Appendices.**

- 9.1 Appendix 1:** Carrier Operating Map for MCK
- 9.2 Appendix 2:** Carrier Operating Map for URR
- 9.3 Appendix 3:** Plan of Merger

**V. THE TRANSACTION MEETS THE REQUIREMENTS  
FOR EXEMPTION**

The STB's regulations are unequivocal that any transaction that falls within any one of the exempt categories is subject to the STB's blanket finding that its prior review and approval of the transaction is not necessary to carry out the national railroad transportation policy or is of limited scope or is unnecessary to protect shippers from market abuse. 49 C.F.R. §1180.2(d).

Accordingly, it is respectfully submitted that the merger proposed herein clearly meets the exemption requirements of the regulations, specifically 49 C.F.R. §1180.2(d)(3), the corporate family exemption, and, as such, meets the statutory requirements for exemption.

Respectfully submitted,

By:   
John A. Vuono, Esq.  
Vuono & Gray, LLC  
310 Grant Street  
Suite 2310  
Pittsburgh, PA 15219  
412-471-1800

OF COUNSEL:

VUONO & GRAY, LLC  
310 Grant Street  
Suite 2310  
Pittsburgh, PA 15219

Robert N. Gentile, Esq.  
Associate General Counsel  
United States Steel Corporation  
600 Grant Street  
Pittsburgh, PA 15219  
412-433-2959

Date: October 18, 2012

VERIFICATION

I, Robert N. Gentile, Associate General Counsel, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am authorized to file this Verification to the Notice of Exemption on behalf of United States Steel Corporation, Transtar, Inc., Union Railroad Company and McKeesport Connecting Railroad Company.

Signed this 18<sup>th</sup> day of October, 2012.

  
\_\_\_\_\_  
Robert N. Gentile

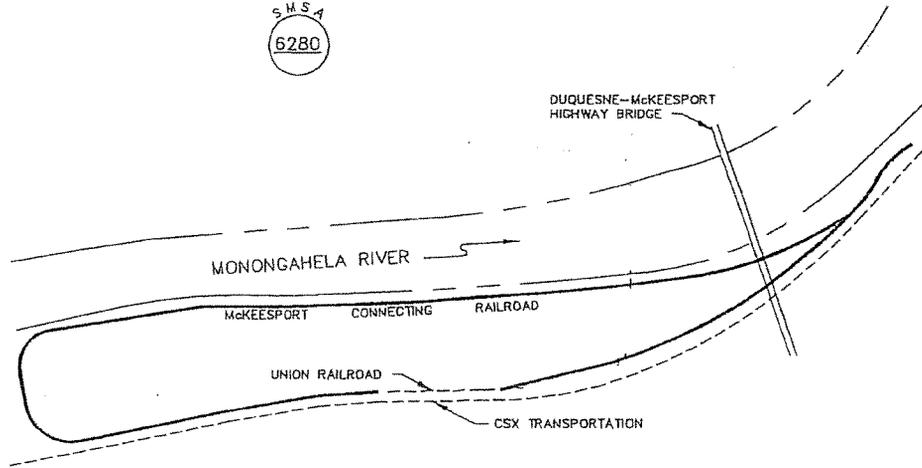
1



ALLEGHENY COUNTY, PA.

CITY OF DUQUESNE

S.M.S.A.  
6280



CITY OF McKEESPORT

LEGEND

— CATEGORY 5



**McKEESPORT CONNECTING RAILROAD COMPANY**

SCALE 1" = 1600 FEET

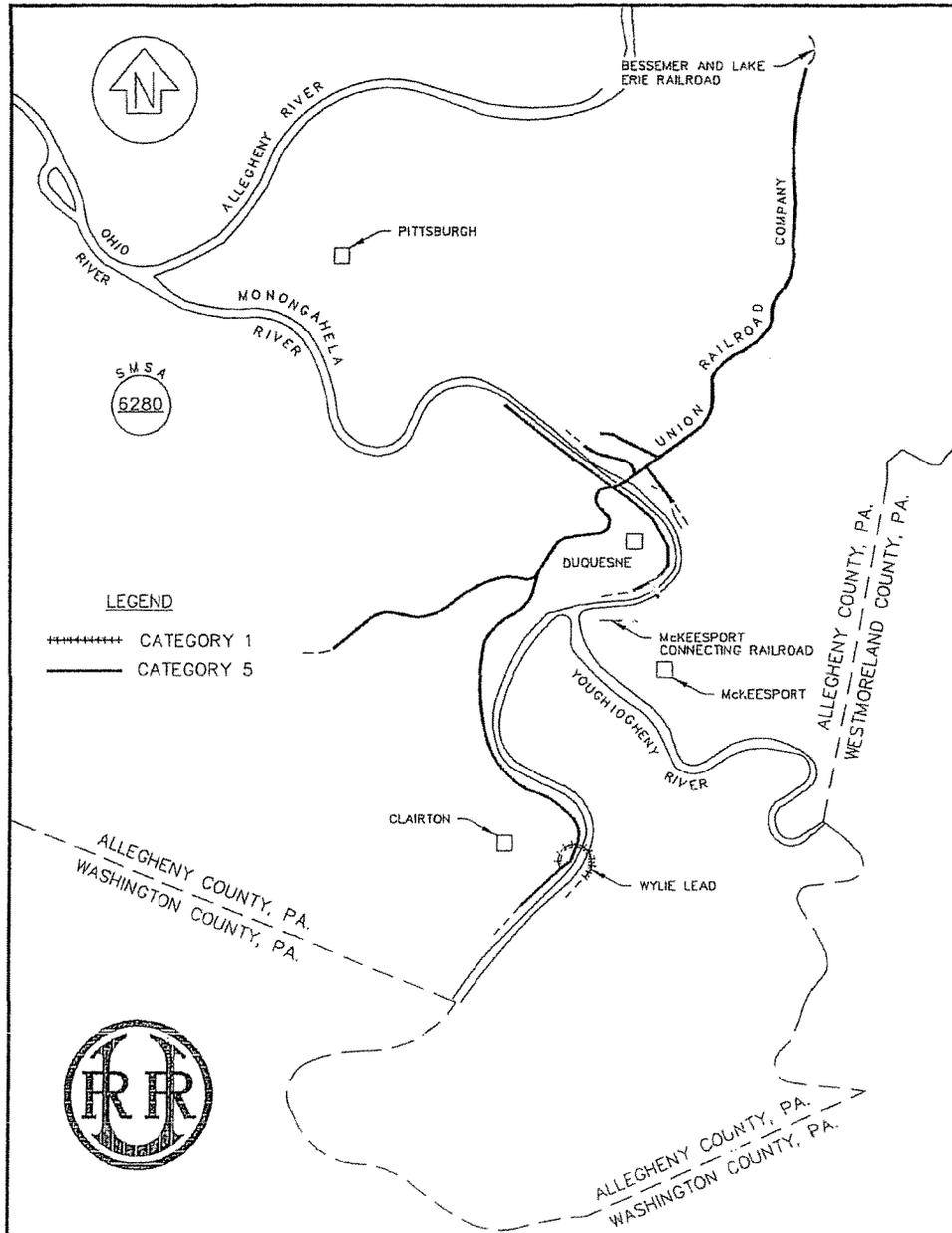
S.M.S.A. 6280

MONROEVILLE, PA.

DATE SEPT. 2012

ENGINEERING SERVICES

2



**UNION RAILROAD COMPANY**

SCALE  $3/8" = 1 \text{ MILE}$

S.M.S.A. 6280

MONROEVILLE, PA.

DATE SEPTEMBER 2012

ENGINEERING SERVICES

3

PLAN OF MERGER

OF

McKEESPORT CONNECTING RAILROAD COMPANY  
(a Delaware corporation)

WITH AND INTO

UNION RAILROAD COMPANY  
(a Delaware corporation)

THIS PLAN OF MERGER (the “Plan of Merger”) sets forth the terms and conditions pursuant to which McKeesport Connecting Railroad Company, a Delaware corporation (“McKeesport”), and Union Railroad Company a Delaware corporation (“Union”) and, together with McKeesport, collectively, the “Constituent Corporations”) shall effect a merger (the “Merger”).

**RECITALS**

WHEREAS, McKeesport is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, 100% of the outstanding capital stock of which is owned by Transtar Inc., a Delaware corporation (“Parent”); and

WHEREAS, the Union is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, 100% of the outstanding capital stock of which is owned by Parent; and

WHEREAS, the Board of Directors of (i) the Constituent Corporations and (ii) Parent, as the sole shareholder of each Constituent Corporation, have approved the merger contemplated by this Agreement in accordance with Section 251 of the General Corporation Law of the State of Delaware (the “GCL”).

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants herein contained and intending to be legally bound, agree as follows:

1. Parties to Merger. The Constituent Corporations shall effect the Merger in accordance with and subject to the terms and conditions of this Plan of Merger.

2. Merger. At the Effective Time (as defined in Section 3 hereof), McKeesport shall be merged with and into Union, which latter corporation shall be, and is hereinafter sometimes referred to as, the “Surviving Corporation.” The corporate existence of the Surviving Corporation shall continue unimpaired and unaffected by the Merger.

3. Filing and Effective Time. The Articles of Merger to be filed with the Department of State of the State of Delaware (the "Department of State"), and such other documents and instruments as are required by, and complying in all respects with, the GCL shall be delivered to the Department of State and the Secretary of State and the Merger shall become effective immediately at the time of such filing, or such later time as is agreed upon by the parties hereto and set forth in the Certificate of Merger provided however that in no event shall the merger be effective prior to the time approval of the merger has been granted, or the transaction has been designated as subject to a class exemption, by the Surface Transportation Board of the United States Department of Transportation (the "Effective Time").

4. Articles of Incorporation. At the Effective Time, the Articles of Incorporation of Union shall be and thereafter remain the Articles of Incorporation of the Surviving Corporation, until amended in accordance with applicable law.

5. Bylaws. At the Effective Time, the Bylaws of Union shall be and thereafter remain the Bylaws of the Surviving Corporation until altered, amended or repealed in accordance with the Articles of Incorporation and Bylaws of the Surviving Corporation and applicable law.

6. Directors and Officers. At the Effective Time, the directors and the officers of Union shall be the directors and the officers of the Surviving Corporation; each such director and officer shall hold office until his resignation or removal, in accordance with the Articles of Incorporation and Bylaws of the Surviving Corporation and applicable law.

7. Capital Stock. At the Effective Time:

(a) [(i)] Each share of McKeesport common stock that is issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holders thereof, be canceled and cease to exist [and (ii) each share of McKeesport preferred stock that is issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holders thereof, be canceled and cease to exist]; and

(b) [(i)] Each share of Union common stock that is issued and outstanding immediately prior to the Effective Time shall be unaffected by the Merger and shall remain outstanding as a share of common stock of the Surviving Corporation [and (ii) each share of Union preferred stock that is issued and outstanding immediately prior to the Effective Time shall be unaffected by the Merger and shall remain outstanding as a share of preferred stock of the Surviving Corporation].

8. Effect of Merger. At the Effective Time, the Merger shall have the effect set forth in Section 259 of the GCL, except as otherwise set forth in this Plan of Merger.

9. Further Assurances. If at any time the Surviving Corporation, or its successors or assigns, shall consider or be advised that any further assignments or assurances in law or any other

acts are necessary or desirable to carry out the purposes of this Plan of Merger, McKeesport and its proper officers and directors shall be deemed to have granted to the Surviving Corporation an irrevocable power of attorney to execute and deliver all such proper deeds, assignments and assurances in law and to do all acts necessary or proper to vest, perfect or confirm title to and possession of such rights, properties or assets in the Surviving Corporation and otherwise to carry out the purposes of this Plan of Merger; and the officers and directors of the Surviving Corporation are fully authorized in the name of McKeesport or otherwise to take any and all such action.

10. Amendment or Termination. This Plan of Merger may be amended or terminated at any time on or before the Effective Date by action of the Boards of Directors of the Constituent Corporations; provided, however, that this Plan of Merger may not be amended in any manner which is then prohibited by law.

11. Counterparts. This Plan of Merger may be executed in counterparts each of which shall be deemed an original and all of which together shall be considered one and the same agreement. The parties agree that a facsimile may be executed as an original.

12. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to principles of conflict of laws.

13. Entire Agreement. This document sets forth the entire agreement between the Constituent Corporations and all prior agreements are merged therein.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties hereto, pursuant to the approval and authority duly given by resolutions adopted by their respective Boards of Directors, have duly executed this Plan of Merger as of the day and year first written above.

**McKEESPORT CONNECTING RAILROAD COMPANY**

By: Malisa J. Sommers  
Name: Malisa J. Sommers  
Title: President  
Date: 10/5/2012

**UNION RAILROAD COMPANY**

By: William C. King, II  
Name: William C. King, II  
Title: Controller & Treasurer  
Date: 10/5/2012